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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 09/749,752 | 12/28/2000 | Taizo Akimoto | Q61244 | 4934 |

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EXAMINER

GOLDBERG, JEANINE ANNE

| ART UNIT | PAPER NUMBER |
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1634

DATE MAILED: 07/30/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/749,752

Applicant(s)

AKIMOTO, TAIZO

Examiner

Jeanine A Goldberg

Art Unit

1634

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 22 July 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
 b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
 ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
 2. ☐ The proposed amendment(s) will not be entered because:
 (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
 (b) ☐ they raise the issue of new matter (see Note below);
 (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____.

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
 4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
 5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
 6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
 7. ☐ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: _____.

Claim(s) withdrawn from consideration: _____.

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
 9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
 10. ☐ Other: _____

J. Goldberg

Continuation of 5. does NOT place the application in condition for allowance because: The response asserts that the claim is drawn to a feature of using a marker the same as or similar to the marker used for marking the target substance. This argument has been thoroughly reviewed, but is not found persuasive because the claim is directed to a product which requires a means for attaching management information peculiar to the test piece to a predetermined location on the test piece using a marker the same as or similar to the marker used for marking the target substance. The product does not require the marker. The claim only requires the means for attaching management information to the test piece. This means is disclosed in the specification as a spotting device, printer etc.

It is noted that the claims contain only means plus function language for defining the claims. The plain and unambiguous meaning of paragraph six is that one construing means-plus-function language in a claim must look to the specification and interpret that language in light of the corresponding structure, material, or acts described therein, and equivalents thereof, to the extent that the specification provides such disclosure.

With respect to applicant's arguments directed to Zeleny, the response asserts that Zeleny is ambiguous with respect to the feature of using a marker the same as or similar to the marker used for marking the target substance. This argument has been thoroughly reviewed but is not found persuasive because the claim does not require the marker. Rather the claim requires the means for attaching management information, which is a printer.

The response further asserts that Zeleny does not teach or suggest the claimed means for obtaining information concerning the positions of the probes simultaneously. This argument has been thoroughly reviewed, but is not found persuasive because the specification has defined the means for obtaining information as a photomultiplier. The art teaches that a scanner and a photomultiplier are equivalents. Thus, the scanner of Zeleny is encompassed by the means for obtaining information concerning the positions of the probes to which the target substance has bound and simultaneously detecting the management information attached to the test piece.

With respect to Noblett, like Zeleny, the means plus function language of the claims is limited by the specification. Since Noblett teaches all of the elements of the claims, Noblett anticipates the claims.

Perttunen, like Noblett and Zeleny, teaches all of the elements of the claims. The means plus function language is limited by the specification. Thus, in light of the specification, Perttunen teaches all of the limitations of the claims. The placement apparatus arranges a plurality of molecular receptors to a plurality of sites of a support (col. 4). This is a means for attaching information which is equivalent to the specification taught spotter or ink jet.